

ASSEMBLY BILL

No. 2394

Introduced by Assembly Member Margett

February 20, 1998

An act to amend Sections 15853, 15860, 15862.5, and 15864 of the Government Code, and to amend Sections 5003.17, 5006, and 5080.16 of the Public Resources Code, relating to parks and recreation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2394, as introduced, Margett. Parks and recreation: property acquisitions contracts.

Under existing law, all land and other real property to be acquired by any state agency, including the Department of Parks and Recreation, is required to be acquired by the State Public Works Board in accordance with the Property Acquisition Law. Existing law requires the board to acquire on behalf of, and for the department, in accordance with the Property Acquisition Law, land or other real property or interests in real property, including options to purchase, which have been appraised and selected by the department.

This bill would require the board to acquire any interests in real property, including options to purchase, which have been appraised, selected, and settled through purchase negotiations by the department, and would revise various requirements for the transfer of title of property to the department, as specified.

Existing law authorizes the expenditure of any appropriation for the acquisition of real property pursuant to

the Property Acquisition Law, to be expended for the payment of all costs and expenses incurred in the examination, and the determination of the suitability of any real property to be acquired or under consideration for acquisition or, necessarily incurred in the course of acquisition of any such real property and requires that claims for those costs and expenses be presented by the Director of General Services and paid by the Controller.

This bill would require that any claims for those costs and expenses related to real property acquisitions by the department be presented by the Director of Parks and Recreation, and paid by the Controller.

Existing law requires the department to obtain jurisdiction subject to any existing lease or rental agreement concerning any real property transferred, as specified, and to make the real property accessible and usable by the general public at the earliest opportunity. Existing law requires the deposit of all rents and other returns received by the department from real property, in accordance with specified requirements, and requires the department to request from the Legislature in its annual budget funds sufficient to meet its costs of property management and its costs of operation and maintenance of specified real property.

This bill would delete those requirements and would, instead, require that specified real property or interest in real property acquired by the department be under the jurisdiction of the department, immediately upon transfer of title to the state. The bill would require the director, on behalf of the board, to file against any appropriation for specified expenditures relating to real property acquisitions, all claims covering expenditures incurred by the department in the acquisition of real property for the state park system pursuant to the act by which the appropriation is made, and would require the Controller to draw a warrant therefor.

Existing law authorizes the department to lease, for use, all or any portion of any parcel of real property acquired for the state park system, if the director makes specified findings, but prohibits the term of a lease from exceeding a period of 5 years.



This bill would increase to 10 years the maximum term for any such lease.

Existing law authorizes the department, with the consent of the Department of Finance, and subject to specified requirements, to acquire title to, or any interest in, real or personal property, which the department deems necessary or proper for the extension, improvement, or development of the state park system.

This bill would revise various requirements relating to the department's acquisition of title to, or any interest in, real property, including personal property incidental to the purchase of real property and options to purchase property, as prescribed.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 15853 of the Government Code
2 is amended to read:

3 15853. (a) The board ~~is authorized to~~ *may* select and
4 acquire, in the name of and on behalf of the state, with the
5 consent of the state agency concerned, the fee or any
6 lesser right or interest in any real property necessary for
7 any state purpose or function.

8 (b) ~~Where~~ *If* moneys are appropriated by the Budget
9 Act for any fiscal year or by any other act for the
10 acquisition of land or other real property, either (1)
11 subject to ~~the provisions of the Property Acquisition Law~~
12 *this part* or (2) for any state agency for whom property
13 is acquired by the board, the moneys and acquisitions
14 ~~shall be~~ *are* subject to ~~the provisions of~~ this part and the
15 moneys shall be expended in accordance with ~~the~~
16 ~~provisions of~~ this part, notwithstanding any other
17 provisions of law.

18 (c) Notwithstanding any other provisions of law, all
19 land and other real property to be acquired by or for any
20 state agency, other than the Department of
21 Transportation, the Department of Water Resources, the
22 State Reclamation Board, the Department of Fish and

1 Game, the Wildlife Conservation Board, the Public
2 Employees' Retirement System, the State Teachers'
3 Retirement System, the Department of Housing and
4 Community Development, and the State Lands
5 Commission, except for property to be acquired for the
6 State Lands Commission pursuant to an appropriation
7 from the General Fund, shall be acquired by the State
8 Public Works Board in accordance with ~~the provisions of~~
9 ~~the Property Acquisition Law~~ *this part*.

10 (d) (1) Notwithstanding subdivision (a), the board
11 shall acquire, on behalf of and for the Department of
12 Parks and Recreation, in accordance with this part, ~~and~~
13 ~~or other real property or any interests in real property,~~
14 including options to purchase, which have been
15 appraised ~~and~~, selected, ~~and settled through purchase~~
16 ~~negotiations~~ by the Department of Parks and Recreation
17 pursuant to ~~subdivisions (b) and (e)~~ *subdivision (b)* of
18 Section 5006 of the Public Resources Code. Out of moneys
19 appropriated for the acquisition of options to purchase, no
20 more than ten thousand dollars (\$10,000) may be
21 expended for the acquisition of any single option unless
22 otherwise provided by the Legislature.

23 (2) Notwithstanding Section 15854, purchase
24 negotiations for the acquisition of any land or other real
25 property for the state park system pursuant to subdivision
26 ~~(f)~~ *(d)* of Section 5006 of the Public Resources Code shall
27 be initiated within six months of the effective date of the
28 act ~~which~~ *that* appropriates funds for the acquisition.
29 Purchase negotiations on all projects not proposed
30 pursuant to subdivision ~~(f)~~ *(d)* of Section 5006 of the
31 Public Resources Code shall be initiated within 12 months
32 of the effective date of the act appropriating funds for the
33 acquisition. Either title shall be conveyed or a written
34 agreement to transfer title shall be executed within ~~one~~
35 ~~year of the initiation of purchase negotiations~~ *the*
36 *appropriate authorization period* unless the Department
37 of Parks and Recreation formally abandons the
38 acquisition prior to the conclusion of the ~~one-year period~~
39 *appropriate authorization period*. For the purposes of this
40 section, in order for the Department of Parks and

1 Recreation to “formally abandon” an acquisition, it shall
2 transmit written notification to the board of its intent not
3 to proceed with the acquisition.

4 (3) The board ~~may~~, at any time during the periods
5 specified in paragraph (2), ~~may~~ commence
6 condemnation proceedings if it finds it to be appropriate.
7 However, if, ~~within six months of the initiation of~~
8 ~~purchase—negotiations~~ during the appropriate
9 authorization period, title is not conveyed or a written
10 agreement to transfer title is not signed, the acquisition
11 has not been formally abandoned, or condemnation
12 proceedings have not been commenced, the ~~board~~
13 *Department of Parks and Recreation* shall ~~immediately~~
14 notify, by letter, the chair of the committee in each house
15 of the Legislature ~~which~~ *that* considers appropriations,
16 the Chair of the Joint Legislative Budget Committee, and
17 the Members of the Legislature within whose district any
18 part of the land or other real property is located of the
19 status of the acquisition. For the purpose of this
20 paragraph, condemnation proceedings shall be deemed
21 to be commenced as of the date the board authorizes
22 acquisition by condemnation.

23 ~~(4) Six months from the date of the notification~~
24 ~~required by paragraph (3), the board shall notify those~~
25 ~~persons specified in paragraph (3) of the status of the~~
26 ~~acquisition.~~

27 ~~(5)–~~

28 (4) The board may schedule special meetings as are
29 necessary to expedite the acquisition of options to
30 purchase ~~land or other~~ real property for the state park
31 system.

32 (e) The board may acquire furnishings ~~which~~ *that* the
33 owner thereof agrees to sell and ~~which~~ *that* are contained
34 within improvements acquired by the board. Cost of
35 acquisition of furnishings shall be charged to the
36 appropriation available for acquisition of the real
37 property.

38 SEC. 2. Section 15860 of the Government Code is
39 amended to read:

1 15860. (a) Any appropriation for the acquisition of
2 real property pursuant to this part may be expended for
3 the payment of all costs and expenses, including the cost
4 of investigation and surveys, the fees and expenses of
5 appraisers and expert witnesses, and the cost of title
6 searches necessarily incurred in the examination, and the
7 determination of the suitability of any real property to be
8 acquired or under consideration for acquisition, or *other*
9 *costs* necessarily incurred in the course of acquisition of
10 any such real property. Claims for ~~such~~ costs and expenses
11 shall be presented by the Director of General Services
12 and shall be paid by the Controller.

13 *(b) Notwithstanding subdivision (a), claims for those*
14 *costs and expenses related to real property acquisitions by*
15 *the Department of Parks and Recreation, shall be*
16 *presented by the Director of Parks and Recreation, and*
17 *shall be paid by the Controller.*

18 SEC. 3. Section 15862.5 of the Government Code is
19 amended to read:

20 15862.5. ~~(a) Notwithstanding Section 15862, all real~~
21 ~~property acquired pursuant to this part for state park~~
22 ~~purposes prior to April 1, 1984, and during the 12 months~~
23 ~~prior to April 1 of each year thereafter, shall be~~
24 ~~transferred to the jurisdiction of the Department of Parks~~
25 ~~and Recreation on or before the effective date of the~~
26 ~~Budget Act next enacted after April 1.~~

27 ~~(b) The Department of Parks and Recreation shall~~
28 ~~obtain jurisdiction subject to any existing lease or rental~~
29 ~~agreement concerning any real property transferred~~
30 ~~pursuant to subdivision (a) but shall seek to make the real~~
31 ~~property accessible and usable by the general public at~~
32 ~~the earliest opportunity. No transfer under this section~~
33 ~~shall affect the responsibilities under Chapter 16~~
34 ~~(commencing with Section 7260) of Division 7 of Title 1~~
35 ~~of the Government Code, which shall be performed by~~
36 ~~the Department of General Services. Consistent with the~~
37 ~~sound management and conservation of resources on real~~
38 ~~property acquired for state park purposes, the Director~~
39 ~~of Parks and Recreation may enter into an interagency~~
40 ~~agreement with the Department of General Services for~~

~~property management services for any real property acquired for state park purposes.~~

~~(e) All rents and other returns received by the Department of Parks and Recreation from real property subject to this section shall be deposited as provided in Section 5010 of the Public Resources Code.~~

~~(d) The Department of Parks and Recreation shall request funds sufficient to meet its costs of property management and its costs of operation and maintenance of all real property subject to this section in its annual budget request submitted to the Legislature.~~

~~(e) With respect to the budget for the 1984-85 fiscal year, this section applies to all properties under the jurisdiction of the Department of General Services, regardless of the date each of those properties was originally acquired for state park purposes.~~

~~(f) As used in this section, "acquired" means the acquisition of any interest in real property: all real property or interest in real property acquired by the Department of Parks and Recreation pursuant to subdivision (d) of Section 15853 and Section 5006 of the Public Resources Code shall be under the jurisdiction of the Department of Parks and Recreation, immediately upon transfer of the title to the state.~~

~~SEC. 4. Section 15864 of the Government Code is amended to read:~~

~~15864. (a) On behalf of the board, the Director of General Services shall file against any appropriation made for expenditure under this part all claims covering expenditures incurred in acquiring real property pursuant to the act by which the appropriation is made, and the Controller shall draw ~~his~~ a warrant therefor.~~

~~(b) Notwithstanding subdivision (a), the Director of Parks and Recreation, on behalf of the board, shall file against any appropriation for expenditure under this part all claims covering expenditures incurred by the Department of Parks and Recreation in the acquisition of real property for the state park system pursuant to the act by which the appropriation is made, and the Controller shall draw a warrant therefor.~~

1 SEC. 5. Section 5003.17 of the Public Resources Code
2 is amended to read:

3 5003.17. (a) The department may lease, for any use,
4 all or any portion of any parcel of real property acquired
5 for state park system purposes, ~~prior to its operation as a~~
6 ~~unit or part of a unit of the state park system open to~~
7 ~~public use~~, if the director finds that the use would be
8 compatible with the ~~ultimate contemplated~~ use of the
9 real property as a unit or part of a unit and with the sound
10 management and conservation of resources within the
11 unit.

12 (b) Rent shall be based on the fair market value of the
13 property when used for the purpose for which it is leased.
14 All rent shall be deposited pursuant to Section 5010.

15 (c) The lease term shall not exceed ~~five~~ 10 years. All
16 leases ~~shall be~~ *are* subject to the approval of the
17 Department of General Services.

18 (d) No lease shall be entered into that extends beyond
19 ~~the five-year~~ 10-year period ~~after acquisition of the~~
20 ~~property for the state park system~~ unless the Legislature
21 has reviewed and approved the proposed lease as part of
22 the annual budget process, or the Public Works Board has
23 determined that the proposed lease could not have been
24 presented to the Legislature for review and approval in
25 the course of its consideration of the Budget Bill and that
26 it would be adverse to the interests of the public to defer
27 that review and approval to a time when the Legislature
28 next considers a Budget Bill. Upon making that
29 determination, the board may review and approve the
30 proposed lease after giving at least 20 days' written notice
31 to the ~~Chairman~~ *Chairperson* of the Joint Legislative
32 Budget Committee and to the ~~chairmen~~ *chairperson* of
33 the fiscal and appropriate policy committees of its
34 intended action. All actions taken by the board pursuant
35 to this subdivision shall be reported to the Legislature in
36 the next Governor's Budget.

37 SEC. 6. Section 5006 of the Public Resources Code is
38 amended to read:

39 5006. (a) The department, with the consent of the
40 Department of Finance, and subject to Section 15853 of

1 the Government Code, may acquire title to or any
2 interest in real ~~and personal~~ property, *including personal*
3 *property incidental to the purchase of real property and*
4 *options to purchase property*, which the department
5 deems necessary or proper for the extension,
6 improvement, or development of the state park system.
7 *All real and personal property acquired by the*
8 *department for the state park system shall be under the*
9 *jurisdiction of the department immediately upon transfer*
10 *of title to the state.*

11 (b) (1) The department ~~may~~, pursuant to paragraph
12 (1) of subdivision (d) of Section 15853 of the Government
13 Code, may appraise and select ~~land or other~~ real property
14 for the purpose of acquiring, ~~pursuant to paragraph (1)~~
15 ~~of subdivision (d) of Section 15853 of the Government~~
16 ~~Code~~, an option to purchase the ~~land or other~~ real
17 property for the state park system ~~and appraise the~~
18 ~~options either by utilizing~~. *The department may utilize*
19 *the services of the Real Estate Services Division of the*
20 *Department of General Services or by may contract with*
21 *independent appraisers approved by the Real*
22 *Estate Services Division appropriately certified by the*
23 *office of Real Estate Appraisers, to assist in appraising*
24 *property.*

25 (e) ~~(e)~~
26 (2) The department ~~may~~, pursuant to paragraph (1)
27 of subdivision (d) of Section 15853 of the Government
28 Code, may appraise and select ~~land or other~~ real property
29 ~~to be acquired~~ for potential acquisition of, and addition to,
30 the state park system ~~and appraise the land or other real~~
31 ~~property either by utilizing~~. *The department may utilize*
32 *the services of the Real Estate Services Division of the*
33 *Department of General Services or by may contract with*
34 *independent appraisers approved by the Real Estate*
35 *Services Division appropriately certified by the Office of*
36 *Real Estate Appraisers, to assist in appraising the*
37 *property. Prior to commencing the appraisal appraising*
38 *the property, the Department of Parks and Recreation*
39 *shall notify the Legislature of each proposed acquisition*
40 *project and shall notify all owners of land and other the*

~~1 real property lying within the tentative boundaries of the~~
~~2 proposed acquisition project, as shown on the most recent~~
~~3 tax assessment rolls in the county of record, of the fact that~~
~~4 the department has selected~~ *is considering the real*
~~5 property for acquisition, and may have it appraised. The~~
~~6 State Public Works Board department shall prescribe~~
~~7 determine the form and manner of giving the notice.~~

(3) The department, pursuant to paragraph (1) of
9 subdivision (d) of Section 15853 of the Government
10 Code, may select real property it has appraised and
11 submit purchase offers and negotiate a purchase
12 agreement with the owner or owners of the property. The
13 department shall be responsible for implementing and
14 processing the purchase agreement and conveyance of
15 title to the state. The department may utilize the services
16 of the Real Estate Services Division of the Department of
17 General Services, or may contract with other state
18 agencies with real estate and right-of-way acquisition
19 programs, to assist in negotiating purchase agreements
20 and conveyance of title.

(c) Upon acquisition of real property for the state park
22 system, the department shall be responsible for providing
23 relocation assistance to displaced persons as provided
24 under Chapter 16 (commencing with Section 7260) of
25 Division 7 of Title 1 of the Government Code. The
26 department may utilize the services of the Real Estate
27 Services Division of the Department of General Services,
28 or may contract with other state agencies or private
29 consultants with real estate and right-of-way acquisition
30 programs, to assist in relocation planning and
31 implementation.

~~32 (d) All appropriations for state park system acquisition~~
~~33 project planning costs, and for costs of site selection and~~
~~34 appraisal pursuant to subdivision (c); (1) Requests for~~
35 funding to administer the department's acquisition
36 program shall be submitted by the department for
37 inclusion in the Governor's Budget for each fiscal year.

~~38 (e) The department shall submit a proposal for an~~
~~39 appropriation for the acquisition of~~

(2) *Requests for funding to acquire options to purchase ~~land or other~~ real and personal property for the state park system shall be submitted by the department for inclusion in the Governor's Budget for each fiscal year based upon its estimate of the amount needed for that purpose. If an option to purchase real property for the state park system has been acquired, the funding proposed by the department shall be the appraised value of the property less the sum expended for the purchase of the option.* The expenditure of the moneys shall be subject to the limitation specified in paragraph (1) of subdivision (d) of Section 15853 of the Government Code unless otherwise provided by the Legislature.

~~(f) (1) All appropriations for state park system acquisition projects proposed by the department~~

(3) *Requests for funding to acquire real property or any interest in real property shall be submitted by the department for inclusion in the Governor's Budget for each fiscal year. The projects shall have been selected and appraised by the department pursuant to subdivision (e) (b) prior to inclusion. The Governor's Budget shall contain a separate description of each project, or acquisition program and its appraised value, or funding allocation.*

~~(2) Where an option to purchase land or other real property for the state park system has been acquired, the appropriation proposed by the department for the acquisition of the land or other real property shall be its appraised value less the sum expended for the acquisition of the option.~~

~~(g)~~

(e) The requirements imposed by ~~subdivisions (d), (e), and (f)~~ subdivision (d) are in addition to any other provisions of law requiring the inclusion of state park system acquisition projects in the Governor's Budget.

~~(h)~~

(f) The department shall not ~~expend or participate in the expenditure of any appropriation for the acquisition of real property~~ enter into any purchase agreements for the acquisition of real property if the consideration to be

1 *paid by the department is in excess of five hundred*
2 *thousand dollars (\$500,000), unless ~~the provisions of~~*
3 *Section 5006.1 have has been complied with.*

4 *(g) Notwithstanding any other provision of law, all*
5 *appraisals conducted by the department pursuant to this*
6 *section shall be reviewed by the Department of General*
7 *Services or, at the discretion of the Department of*
8 *General Services, a competent professional appraiser*
9 *approved by the Department of General Services. Real*
10 *property shall be appraised and appraisal review*
11 *completed before commencement of purchasing*
12 *negotiations. All contracts related to the acquisition of*
13 *real property shall be reviewed by the Department of*
14 *General Services pursuant to Section 11005 of the*
15 *Government Code.*

16 SEC. 7. Section 5080.16 of the Public Resources Code
17 is amended to read:

18 5080.16. If the director determines that it is for the
19 best interests of the state, ~~he or she may~~ *the director*, upon
20 giving notice to the State Park and Recreation
21 Commission, *may* negotiate or renegotiate a contract,
22 including terms and conditions, when one or more of the
23 following conditions exist:

24 (a) The bid process as prescribed in this article has
25 failed to produce a best responsible bidder.

26 (b) The negotiation or renegotiation would constitute
27 an extension of an existing contract obtained through the
28 process required by this article and the extended contract
29 would provide for substantial and additional concession
30 facilities, which would be constructed at the sole expense
31 of the concessionaire and which are set forth in the
32 general plan for the unit and are needed to accommodate
33 existing or projected increased public usage.

34 (c) Lands in the state park system administered by the
35 department and lands under the legal control of the
36 prospective concessionaire are so situated that the
37 concession is dependent upon the use of those public and
38 private lands for the physical or economic success, or
39 both, of the concession.

1 (d) Whenever a concession is desired for particular
2 interpretive purposes in a unit of the state park system
3 and the prospective concessionaire possesses special
4 knowledge, experience, skills, or ability appropriate to
5 the particular interpretive purposes.

6 (e) Whenever the concession has been severely and
7 adversely impacted through no fault of the
8 concessionaire by an unanticipated calamity, park
9 closure, major construction, or other harmful event or
10 action.

11 (f) Whenever the *estimated* administrative costs for
12 the bid process exceed the projected annual net rental
13 revenue to the state ~~and public notice in accordance with~~
14 ~~Section 5080.07 has not produced more than one~~
15 ~~responsible bidder.~~

